IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8292 of 1990

For Approval and Signature:
HON'BLE MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BHARUCH JILLA ADIVASI SEVA SANGH KELVANI MANDAL
Versus
BHADRABEN Y PANCHOLI

Appearance:
MR SK JHAVERI for Petitioner
MR RK MISHRA for Respondent No. 1-3
MR AJ DESAI, AGP for Respondent No. 4

CORAM : HON'BLE MR.JUSTICE R.K.ABICHANDANI

Date of decision: 14/11/2003

ORAL JUDGEMENT

#. This petition is directed against the interim order dated 1st May, 1989 passed by the Gujarat Primary Education Tribunal in Application No. 161/89, restraining the petitioner from transferring the services of the original applicants-teachers to the other school run by the petitioner-Mandal on the ground that the Director of Education has not given permission for closure of the institution in which they were serving.

#. The challenge to the validity of Rule-5 of the Bombay Primary Education Rules, 1949 is given up as stated by the learned counsel for the petitioner.

#. Today, this Court in a judgment and order delivered in Special Civil Application No. 5165 of 1989 has set aside the order of the State Government rejecting the application of the present petitioner for closure of the schools and directed the State Government to reconsider the application and take a decision in accordance with law. Therefore, the question whether the schools in which these respondents-original applicant-teachers were working should have been allowed to be closed down or not will now be decided by the State Government.

#. The case of the respondent-original applicants before the Tribunal is that since the closure was not permitted, their services cannot be transferred, and, interim relief has been granted in their favour. The learned counsel appearing for all concerned agree that the interim relief granted in the present petition in terms of para 12(C) staying the implementation of the impugned interim order made by the Tribunal may continue to operate till the disposal of the said Application No. 161 of 1989 by the Tribunal. It is stated that the said application is still pending before the Tribunal. Therefore, as per the consensus, it is directed that status-quo will continue till the Tribunal decides the said application. Rule is made absolute accordingly with no order as to costs.

[R.K. ABICHANDANI, J.]
pirzada/-